

REMARKS

To date, the Examiner has not indicated that the subject matter of the information disclosure statement (IDS) filed 12/09/2003 has been properly considered. A copy of such IDS is submitted herewith. If the Examiner requires additional copies of any reference(s), applicant invites the Examiner to contact the undersigned. Documentation in the file wrapper of the instant application confirming the Examiner's consideration of the appropriate reference(s) is respectfully requested.

The Examiner has rejected Claims 24-31 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has amended Claims 24-31 in order to avoid such rejection.

Thus, all of the independent claims are deemed allowable. Moreover, the remaining dependent claims are further deemed allowable, in view of their dependence on such independent claims.

In addition, the Examiner is thanked for the allowable subject matter of Claims 1, 3-4, 6-9, 11-13, 17-23, and 32-40. The Examiner has stated in the Examiner's Statement of Reasons for Allowance the following: "[t]he prior art of record... does not disclose or fairly teach: generating an optimal price, wherein the optimal price is generated by receiving a plurality of prices associated with a price-frequency mathematical distribution, a number of competitors, a business objective and a cost associated with a good or service, and calculating the optimal price based on the prices, the number of competitors, business objective, and cost associated with the good or service; and reacting by adjusting the price-frequency mathematical distribution based on a difference between the expected result and an actual result" (emphasis added).

In response, applicant points out that at least some of the independent claims (e.g. Claim 20) are not limited to at least the emphasized features that the Examiner has

highlighted above. Just by way of example, at least some of applicant's independent claims are not limited to "reacting by adjusting the price-frequency mathematical distribution based on a difference between the expected result and an actual result," as the Examiner notes.

Clearly, at least some of the independent claims are not limited to the features that the Examiner has noted above in the Examiner's Statement of Reasons for Allowance, as emphasized above (by way of example). Instead, each of the claims should only be limited by the language existing therein.

In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 505-5100. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 50-1351 (Order No. ABE1P002).

Respectfully submitted,
Zilka-Kotab, PC.

/KEVINZILKA/

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PATENT POSTCARD

Docket No. ABE1P002 Appl. No. 10/644,944 Date 12/9/2003
By: KIZJEH Filing Date: 8/19/2003 Express Mail No.:
Inventor(s): John R. Abe

Title: CONTINUOUS PRICE OPTIMIZATION SYSTEM, METHOD AND COMPUTER PROGRAM
PRODUCT FOR SATISFYING CERTAIN BUSINESS OBJECTIVES

The following has been received in the U.S. Patent & Trademark Office on the date stamped below:

- X Information Disclosure Statement
- X Copy of Cited Reference
- X Return Postcard



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:)	
)	Group Art Unit: 3629
John R. Abe)	
)	Examiner: Unassigned
Application No. 10/644,944)	
)	Atty. Docket No. ABE1P002
Filed: 08/19/2003)	
)	Date: December 9, 2003
For: CONTINUOUS PRICE OPTIMIZATION)	
SYSTEM, METHOD AND COMPUTER)	
PROGRAM PRODUCT FOR SATISFYING)	
CERTAIN BUSINESS OBJECTIVES)	
.....)	

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313-1450 on December 9, 2003.

Signed:


Erica L. Farlow

INFORMATION DISCLOSURE STATEMENT
UNDER 37 CFR §§1.56 AND 1.97(b)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

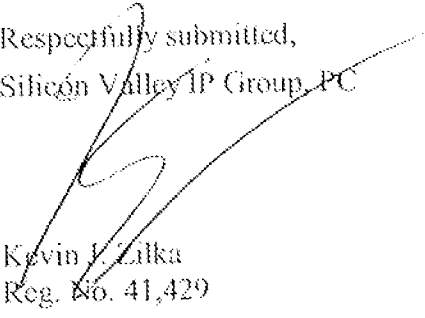
Dear Sir:

Application 10/644,949, filed 08/19/2003, may be material to examination of the above-identified patent application. Applicants identify this application in compliance with their duty of disclosure pursuant to 37 CFR §§1.56 and 1.97. The Examiner is requested to make this statement an official record in this application. However, IT IS RESPECTFULLY REQUESTED THAT THE APPLICATION SERIAL NUMBER AND FILING DATE NOT BE IDENTIFIED ON ANY PATENT ISSUED FROM THE ABOVE-IDENTIFIED APPLICATION under MPEP §609C(2) and §609D.

This Information Disclosure Statement is not to be construed as a representation that a search has been made, that additional information material to the examination of this application does not exist, or that these references indeed constitute prior art.

This Information Disclosure Statement is believed to be filed before the mailing date of a first Office Action on the merits. Accordingly, it is believed that no fees are due in connection with the filing of this Information Disclosure Statement. However, if it is determined that any fees are due, the Commissioner is hereby authorized to charge such fees to Deposit Account 50-1351 (Order No. ABE1P002).

Respectfully submitted,
Silicon Valley IP Group, PC



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